

BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes

January 15, 2004

A meeting of the Board of Environmental Protection was held on Thursday, January 15, 2004, at the Senator Inn / Best Western facility in Augusta, Maine. Richard Wardwell, Chair, called the meeting to order at 11:30 a.m. with the following individuals present:

Board: Ernest Hilton, Nancy Anderson, Irving Faunce, Katharine Littlefield, Richard Wardwell, Virginia Plummer, Matt Scott and Jean T. Wilkinson

Absent: Nancy Ziegler

Note: There is one vacancy

<u>Staff:</u>	<u>Bureau of Land and Water Quality</u>	Dana Murch
	<u>Bureau of Land and Water Quality</u>	Judy Gates
	<u>Bureau of Land and Water Quality</u>	Linda Kokemuller

Others: David P. Littell, Deputy Commissioner
Jan McClintock, Assistant Attorney General
Jerry Reid, Assistant Attorney General (Public Hearings only)
Cynthia Bertocci, Executive Analyst
Terry Hanson, Administrative Assistant

(Meeting adjourned at approximately 3:30 p.m.)

I. DEPARTMENTAL

A. COMMISSIONER'S COMMENTS: Deputy Commissioner Littell reported the following:

Future Projects: Tom Welch, Public Utilities Commission advised that the Bangor Hydro may be proposing a second tie line to New Brunswick later this year and the application may come to the BEP in some capacity. Additionally, an application for a windpower facility at Mars Hill was filed with the Department on January 12th. Staff will be reviewing the application to determine whether Board jurisdiction is warranted. Board jurisdiction has not yet been requested by any person.

Redington Township: An application for this windpower project has not yet been submitted. The procedure here will be more complicated than for Mars Hill since the project is located largely in Land Use Regulation Commission (LURC) jurisdiction. It is more likely that the Board will receive a request for jurisdiction on this application.

Old Town Landfill: The City of Brewer has filed a request for Board jurisdiction over this application. The Commissioner is reviewing this request and will be responding in the next few days. The major issue appears to be traffic, which is a MDOT issue. The application does not appear to meet the standards for Board jurisdiction. In response to public interest in the application the Department has scheduled an informational session for January 21st 6:30 p.m., at the Elks Club in Old Town.

Budget: The Department's share of the budget reductions is: \$92,514 for FY 04 and \$64,999 for FY 05. This reduction is distributed across program bureaus as follows: (a) Land & Water: \$42,742/FY 04 -- \$44,189/FY 05 [*primarily from 319 non-point source program*], (b) Remediation and Waste Management: \$37,745/FY04 -- \$12,360/FY05 [*accomplished through journaling to other accounts*], and (c) Air Quality \$12,027/FY04 -- \$8,450/FY05 [*absorbed at present through cost savings*].

New Bureau Director: David Littell introduced Stephen Davis, the new Director of the Bureau of Remediation and Waste Management. Mr. Davis brings 21 years of experience from the Department of Natural Resources in Illinois dealing with environmental issues ranging from hazardous material, RCRA, to clean air and clean water.

Questions: Board member Irving Faunce asked what criteria would trigger BEP oversight of the proposed windpower projects.

Deputy Commissioner Littell responded that the application might involve provisions of rules that have not previously been considered.. It is expected that the Redington project may receive more public interest than Mars Hill application..

B. CHAIRMAN'S COMMENTS:

Today's abbreviated agenda is the result of needing to remove an agenda item from consideration in order to accommodate late arriving information. The start time of the meeting was changed to 11:30a.m. The Board could not move all items up on the agenda because the public hearings were noticed for the afternoon. The Chair noted that at times it is necessary to be flexible with regard to meeting start times and changes to the agenda given published public hearings start times.

C. EXECUTIVE ANALYST COMMENTS:

Pinnacle Partners: At the December 4, 2003 Board meeting, the Board denied an appeal by Sable Golf and Sablots and granted the permit for construction of an office building in South Portland. The appellant's have now appealed the Board's decision to Superior Court. Board members who would like a copy of the complaint should contact Cindy.

Maine Department of Inland Fisheries and Wildlife, application for boat ramp at Mere Point: The applicant requested a continuance in order to collect additional information on the wetlands as requested by the Department. The information cannot be collected until the summer. There were no objections from the parties to the continuance. The Chairman will meet with the parties in mid-April to establish a new schedule for the Board's review of this application.

D. BOARD CALENDAR: Reviewed

E. DEPARTMENTAL ORDERS: Reviewed

F. EXECUTIVE SESSION: None

II CONSENT AGENDA ITEMS

The Board voted (7-1-0-1) on a motion to approve as presented consent agenda item 1, 2, 3, 4 and 5
Board members Irving Faunce, Ernest Hilton, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, Nancy Anderson, and Matt Scott voted to support the motion. Board member Katharine Littelfield voted opposed. Board member Nancy Ziegler was absent.

1. CITY OF EASTPORT, Eastport – Administrative Consent Agreement and Enforcement Order. (BLWQ – Water)
2. TOWN OF MOUNT DESERT, Mount Desert – Administrative Consent Agreement and Enforcement Order (BWLQ – Water)
3. ABATEMENT SOLUTIONS, INC., Old Town and York – Administrative Consent Agreement (BRWM)
4. “FILL-IT-UP, PLEASE” INC., South Portland – Administrative Consent Agreement (BAQ)
5. GUILFORD BERUBE, Acton – Administrative Consent Agreement (BLWQ-Land)

The Board voted (7-0-1-1) on a motion to approve as presented consent agenda item 6
Board members Irving Faunce, Ernest Hilton, Katharine Littlefield, Richard Wardwell, Jean T. Wilkinson, Nancy Anderson, and Matt Scott voted to support the motion. Board member Virginia Plummer voted to abstain. Board member Nancy Ziegler was absent.

6. TOWN OF TURNER, Turner – Administrative Consent Agreement and Enforcement Order (BLWQ-Land)

III. Regular Agenda

1. CHINA LAKE / WATER LEVEL (approval of draft order)

The Board voted (5-2-1-1) on a motion to approve the revised draft order as presented.

Board members Irving Faunce, Virginia Plummer, Jean T. Wilkinson Richard Wardwell and Matt Scott voted to support the motion. Board members Ernest Hilton and Katharine Littlefield voted opposed. Board member Nancy Anderson abstained. Board member Nancy Ziegler was absent.

Staff: Dana P. Murch, Bureau of Land and Water Quality.

2. CHAPTER 691, RULES FOR UNDERGROUND OIL STORAGE FACILITIES (adoption)

The Board voted (7-0-0-2) on a motion to direct Department staff to redraft the language of replacement facility to include a list of components for Board consideration at the February 5th regular meeting, to provide additional information from the Department's file regarding the increase from 3 to 15 gallon catch basin, and to include additional language as follows:

7(b) Loading/rack catchment and containment system at new and replacement bulk plant...

The vote was taken pursuant to 38 M.R.S.A. Section 341-D.

Board members Ernest Hilton, Irving Faunce Nancy Anderson, Katharine Littlefield, Virginia Plummer, Richard Wardwell, and Matt Scott voted to support the motion. Board members Jean T. Wilkinson and Nancy Ziegler were absent.

Staff: George Seel, Bureau of Remediation and Waste Management.

3. ANNE S. HANNUM /Remand (distribute record / discuss schedule)

Staff: Cynthia Bertocci, BEP Executive Analyst

Note: no printed documentation included in draft packet.

BOARD RECONVENED TO CONDUCT PUBLIC HEARING(S) AS FOLLOWS:

2:00 p.m. **Chapter 124** Total Reduced Sulfur Control From Kraft Pulp Mills / Amendments

2:30 p.m. **Chapter 127** New Motor Vehicle Emission Standards Regulation / Amendments